

SENATE BILL No. 387

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2.

Synopsis: Utility service during the heating season. Extends the period during which an electric or a gas utility may not terminate residential service to a customer who is eligible for and has applied for emergency energy assistance. Extends the moratorium by changing: (1) the start date from December 1 to November 15; and (2) the end date from March 15 to March 31. Requires a utility to comply with notice requirements before terminating service during the heating season to any residential customer whose account is delinquent. Requires a utility to offer a residential customer a deferred payment plan for past due amounts and a level payment plan for past due and future charges. Prohibits a utility from terminating service during the heating season if a customer has entered into a deferred payment plan and has not defaulted on the plan. Allows a utility to terminate service not earlier than 14 days after providing the notice of termination required during the heating season if the customer has not entered into a deferred or level payment plan with the utility or provided evidence that the customer has applied for emergency energy assistance.

Effective: July 1, 2004.

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January 12, 2004, read first time and referred to Committee on Utility and Regulatory Affairs.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 387

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-2-121 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 121. (a)
3 Notwithstanding any other provision of law, from ~~December 1~~
4 **November 15 of any year** through March ~~15~~ **31 of any the**
5 **immediately following year, no an electric utility or a gas utility,**
6 including a municipally owned, privately owned, or cooperatively
7 owned utility, ~~shall~~ **may not** terminate residential electric or gas
8 service for persons who are eligible for and have applied for assistance:
9 (1) under IC 12-14-11; or
10 (2) **through any public or private energy assistance program**
11 **for which an eligibility requirement is a household income**
12 **that does not exceed two hundred percent (200%) of the**
13 **monthly federal income poverty level for a household.**
14 The commission shall implement procedures to ensure that electric or
15 gas utility service is continued while eligibility for such persons is
16 being determined.
17 (b) Any electric or gas utility, including a municipally owned,

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privately owned, or cooperatively owned utility, shall provide any residential customer whose account is delinquent an opportunity to enter into a reasonable amortization agreement with such company to pay the delinquent account. Such an amortization agreement must provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. An amortization agreement is subject to amendment on the customer's request if there is a change in the customer's financial circumstances. **Subject to subsection (a), if a residential account is delinquent during the period from November 1 of any year through March 31 of the immediately following year, the utility shall provide the customer with:**

(1) the notice required by section 122 of this chapter; and

(2) the opportunity to:

(A) enter into a deferred payment plan or level payment plan; and

(B) apply for assistance under IC 12-14-11; as required under section 122 of this chapter.

(c) The commission may establish a reasonable rate of interest which a utility may charge on the unpaid balance of a customer's delinquent bill that may not exceed the rate established by the commission under section 34.5 of this chapter.

(d) The commission shall adopt rules under IC 4-22-2 to carry out the provisions of this section.

(e) This section does not prohibit an electric or a gas utility from terminating residential utility service upon a request of a customer or under the following circumstances:

(1) If a condition dangerous or hazardous to life, physical safety, or property exists.

(2) Upon order by any court, the commission, or other duly authorized public authority.

(3) If fraudulent or unauthorized use of electricity or gas is detected and the utility has reasonable grounds to believe the affected customer is responsible for such use.

(4) If the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.

SECTION 2. IC 8-1-2-122 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 122. (a) ~~As used in The~~ following definitions apply throughout this section:

(1) "Customer" means a residential customer of a utility or the owner of a master metered apartment building that

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receives service from a utility.

(2) "Dwelling" means an individual residence, including a mobile home or trailer, ~~or~~ a room or combination of rooms, **or a master metered apartment building**, with facilities for living for a single household.

(3) "Heating season" means the period beginning on November 1 of any year and ending on the following April 1.

(4) "Utility" means a municipally owned, investor owned, or cooperatively owned utility that provides energy or fuel to an occupied dwelling.

(b) Subject to subsections (i) and (j) and section 121 of this chapter, a utility including a municipally owned utility, that provides energy or fuel to an occupied dwelling may not, during the heating season, terminate service to the dwelling because of the failure of the customer to pay ~~his~~ **the customer's** energy or fuel bills until fourteen (14) days after it serves notice upon the customer of its intent to terminate service.

(c) A notice served under this section must be in language that is clear, concise, and easily understandable to a layman. It must, in separately numbered paragraphs, **set forth the following:**

(1) ~~indicate~~ The date on which service will be terminated.

(2) ~~state~~ The reason and factual basis for the termination of service.

(3) ~~list~~ The telephone number of the utility office that the customer may call during regular business hours in order to question the proposed termination of service or to seek information concerning ~~his~~ **the customer's** rights. ~~and~~

(4) ~~state~~ **A statement** that the customer may refer to the pamphlet furnished to ~~him~~ **the customer** under 170 IAC 4-1-18 for information as to ~~his~~ **the customer's** rights.

(5) **Information on how the customer may enter into a deferred payment plan or level payment plan that the utility must offer to customers under subsection (f).**

(6) **Information on how the customer may apply for assistance under IC 12-14-11 and information on other assistance that may be available to the customer through a public or private agency.**

(d) Service of a notice under this section must be by:

(1) mail addressed to the customer; or

(2) personal delivery to the customer or to a responsible member of ~~his~~ **the customer's** household;

at the address listed for the customer in the records of the utility.

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(e) No notice may be served under this section before the date on which the customer's account becomes delinquent.

(f) A utility shall offer the following payment plans to a customer whose account is delinquent at any time during the heating season:

(1) Subject to subsection (g), a deferred payment plan allowing for payment of past due amounts over a period of at least four (4) months, beginning any time during or after the heating season, but not to extend beyond October 31 of the year in which the heating season ends.

(2) A level payment plan allowing for the payment of past due or future charges in equal monthly installments.

The utility shall allow the customer to enter into both a deferred payment plan described in subdivision (1) and a level payment plan described in subdivision (2) for the payment of past due amounts. The utility may not require the customer to pay a deposit that exceeds ten percent (10%) of past due amounts upon entering into one (1) or both of the payment plans described in this subsection.

(g) During the heating season, a utility may not refuse to offer a deferred payment plan to a customer because of the customer's default on a prior deferred payment plan with the utility during the previous twelve (12) months. However, a utility is not required to enter into more than one (1) deferred payment plan with a customer during a particular heating season.

(h) This subsection does not apply to master metered apartment buildings. If a utility requires a down payment on any deposit required by the utility for service provided to a residential customer during the heating season, the minimum down payment amount required may not exceed twenty percent (20%) of the total deposit amount. The utility shall allow the residential customer to pay any remaining amount due on the deposit over a period of four (4) months after the due date of the down payment.

(i) Subject to section 121 of this chapter, and not earlier than fourteen (14) days after a utility has provided notice as required under subsection (c), the utility may terminate service to a dwelling because of nonpayment by the customer if the customer has not:

(1) entered into a deferred payment plan or a level payment plan with the utility; or

(2) provided evidence to the utility that the customer has applied for energy assistance under IC 12-14-11 or through any public or private energy assistance program for which an eligibility requirement is a household income that does not

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1 exceed two hundred percent (200%) of the monthly federal
2 income poverty level for a household.

3 (j) A utility may not terminate service to a customer during the
4 heating season if the customer has entered into a deferred payment
5 plan with the utility and has not defaulted on that plan.

6 (k) Subject to any rules or policies of:

7 (1) the division of family and children for providing assistance
8 under IC 12-14-11; or

9 (2) any other public or private energy assistance program for
10 which an eligibility requirement is a household income that
11 does not exceed two hundred percent (200%) of the monthly
12 federal income poverty level for a household;

13 a customer whose application for home energy assistance has been
14 approved may request that the utility deduct one (1) or more of the
15 customer's energy assistance payments from past due amounts on
16 which the customer has arranged to make payments under a
17 deferred payment plan. If the customer's request is allowed by the
18 entity described in subdivision (1) or (2), the utility shall apply the
19 amount of the energy assistance payment against the customer's
20 past due amounts.

21 (l) Before November 1 of each year, a utility under the
22 jurisdiction of the commission shall file with the commission a
23 plan, on a form prescribed by the commission, for complying with
24 the requirements of this section.

25 (m) The commission may adopt rules under IC 4-22-2 to
26 implement this section.

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